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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.

Rulemaking 06-03-004  
(Filed March 2, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING  
NOTICING PREHEARING CONFERENCE AND  
REQUESTING PREHEARING CONFERENCE STATEMENTS**

The scoping memo for this proceeding, issued on April 25, 2006, describes several phases for this rulemaking and numerous issues to be considered and resolved. In Phase II of this proceeding, the Commission will consider the treatment of output from Distributed Generation (DG) facilities for purposes of the compliance with the investor-owned utilities' Renewable Portfolio Standard (RPS).

On June 26, 2006, the Commission will hold a prehearing conference in this rulemaking to discuss whether hearings are needed for the Commission to resolve this Phase II issue. The prehearing conference will be held at the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California and will begin at 10:00 a.m.

In advance of the prehearing conference, parties should submit prehearing conference statements responding to the potential scope and schedule set forth in this ruling and setting forth any material factual issues that they believe warrant hearings to resolve the scope of this phase.

## Potential Scope

In D.05-05-011, the Commission found that the owner of a renewable DG facility owns the renewable energy credits (RECs) associated with the generation of electricity from that facility, consistent with D.03-06-071. (D.05-05-011, Ordering Paragraph 2.) Further, the Commission found that “Renewable energy credits from eligible renewable DG facilities cannot be counted for purposes of the RPS program until issues relating to subsidies and measurement are resolved...” (*Id.*, Ordering Paragraph 5.)

With regard to subsidies, the utilities generally assert that if a DG facility receives a ratepayer subsidy, the utility should be able to use all of the RECs associated with the energy generated by the facility toward its RPS compliance. In contrast, other parties assert that RECs are the property of the owner of the DG facility. The Commission stated in D.05-05-011 that it does not necessarily follow that all RECs from all DG that received any subsidy automatically become the property of the utility or its ratepayers. Instead, it is more reasonable to conclude that some of the money paid by ratepayers to subsidize DG installation may have paid for the same benefits as those sought by the RPS program, but not all. The Commission concluded it was not readily possible to determine what portion of a REC from a given DG facility was actually supported by ratepayer subsidies. That is the question for this proceeding, namely:

- What method should the Commission use to determine the portion of a REC from a renewable DG facility that was supported by a ratepayer subsidy?
- Should net metering benefits be considered in the calculation of ratepayers subsidies, and if so, how?

With regard to measurement, the Commission stated in D.05-05-011 that DG participation in the RPS program is hindered by the problem of measuring the electric production from DG facilities. Thus, if DG is going to be “counted” for purposes of RPS compliance, actual generation must be measured and tracked. This measurement requirement assumes added importance given the Commission’s finding that to the extent RECs from eligible renewable DG facilities are counted for purposes of RPS, the associated electrical generation consumed on the customer side of the meter must be added to the applicable utility’s total retail sales. (D.05-05-011, Ordering Paragraph 4.) The Commission theorized it may be possible to install sophisticated meters for larger DG systems to measure their exact output, whereas a reasonable approximation may need to be established for smaller DG facilities. Therefore, the question to be resolved in this proceeding is:

- How can the Commission measure DG output for purposes of RPS?
- Can meters be installed and if so, what type, and for what size systems?
- If meters are not reasonable for certain smaller systems, what method can be used to measure DG output for these systems?
- How can the Commission ensure that electrical generation consumed on the customer side of the meter is added to the utility’s total retail sales?

Parties should describe in their prehearing conference statements whether they agree with the scope of measurement and subsidy issues relating to the treatment of DG for RPS as set forth above. Parties must raise any scoping issues

they want addressed on the topic of the treatment of DG for RPS at this time and should not wait for a later opportunity.

### **Need for Hearing**

In addition to comments on the scope of this phase, parties should describe in their prehearing conference statements whether they believe hearings are needed in this phase or whether the issue can be decided based on comments and/or briefs. If a party requests a hearing, the party should describe the material factual issues relevant to the scope that require an evidentiary hearing and what evidence they would present. If it cannot be determined at this time whether hearings are necessary, a deadline for motions requesting hearings will be set after the filing of opening and reply testimony.

### **Proposed Schedule**

Parties are also requested to comment in their prehearing conference statements on the schedule set forth below. Parties should note that the schedule tentatively reserves two days for hearing, but the schedule can easily be modified if hearings are not necessary.

July 17, 2006	Comments and/or testimony containing proposals for measurement and subsidy questions
July 31, 2006	Reply comments and/or testimony
August 14-15, 2006	Evidentiary Hearing (if needed)
September 1, 2006	Briefs (if hearings held)
September 11, 2006	Reply briefs (if hearings held)
November 14, 2006	Proposed Decision issued for comment

Therefore, **IT IS RULED** that:

1. A prehearing conference will be held at 10:00 a.m., on June 26, 2006, at the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
2. Parties should file prehearing conference statements no later than June 19, 2006, on the proposed scope and schedule contained in this ruling, and whether evidentiary hearings are required in this matter.

Dated June 8, 2006, at San Francisco, California.

/s/ DOROTHY J. DUDA

Dorothy J. Duda  
Administrative Law Judge

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Dated June 8, 2006, San Francisco, California.

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/s/ FANNIE SID

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